

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FRED CHISOM,

Plaintiff,

v.

CORRECTIONAL OFFICER FRAZER,

Defendant.

Case No. C05-5327

ORDER ADOPTING REPORT
AND RECOMMENDATION

THIS MATTER comes on before the above-entitled Court upon a Report and Recommendation filed by Magistrate Judge J. Kelley Arnold.

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

On or about June 8, 2005, Magistrate Judge Arnold filed his Report and Recommendation which recommends that plaintiff's complaint be dismissed with prejudice as frivolous and that a strike be counted against the plaintiff pursuant to 28 U.S.C. § 1915(g). This complaint is frivolous because it is duplicative of a prior complaint, Chisom v. Frazer, C03-5073 RBL, against the same defendant for the same alleged acts which was previously dismissed with prejudice. On or about June 20, 2005, plaintiff filed a motion to withdraw the complaint (Dkt. #7) and a motion to return exhibits (Dkt. #6).

One of the purposes of 28 U.S.C. § 1915 is to discourage the filing of frivolous complaints which, once filed, require the expenditure of scarce judicial resources. Because plaintiff initially filed his complaint, filed a motion to proceed *in forma pauperis* and only sought to withdraw his complaint after the filing of a Report

1 and Recommendation recommending dismissal with prejudice and with a strike pursuant to 28 U.S.C. §
2 1915(g), scarce judicial resources were expended in reviewing and ruling on his frivolous complaint.
3 Accordingly, it is hereby **ORDERED**:

4 (1) Plaintiff's Motion to Withdraw his Complaint (Dkt. #7) is **DENIED**.

5 (2) Plaintiff's Motion to Return Exhibits (Dkt. #6) is **DENIED**. The record does not contain any
6 exhibits allegedly filed by plaintiff.

7 (3) The Court adopts the Report and Recommendation and this matter is **DISMISSED** with
8 prejudice and the DISMISSAL COUNTS AS A STRIKE PURSUANT TO 28 U.S.C. §
9 1915(g).

10 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing
11 pro se.

12 Dated this 12th day of July, 2005.

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15 RONALD B. LEIGHTON
16 UNITED STATES DISTRICT JUDGE
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